

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

TEXARKANA DIVISION

JOHNNIE WISE	§	
VS.	§	CIVIL ACTION NO. 5:15-CV-45
WARDEN, FCI TEXARKANA	§	

MEMORANDUM ORDER OVERRULING PETITIONER'S OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Johnnie Wise, a prisoner confined at the Federal Correctional Institution in Texarkana, Texas, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Docket No. 1.

The Court referred this matter to the Honorable Caroline Craven, United States Magistrate Judge, at Texarkana, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends denying the petition for writ of habeas corpus. Docket No. 19 at 6.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. The petitioner filed objections to the Report and Recommendation of United States Magistrate Judge. Docket No 20.

This petition concerns a disciplinary case petitioner received after prison officials discovered that another inmate was sending emails from petitioner's email account. Docket No. 19 at 1. Petitioner was found guilty of a disciplinary infraction and sanctioned with 27 days of disallowed good time credits; 30 days of disciplinary segregation, which was suspended; and 180 days of email restriction. *Id.* at 3. Petitioner alleges that the disciplinary action was retaliatory

and violated procedural rules, and he alleges that the disciplinary hearing officer was biased. Docket No. 1 at 4–7.

None of petitioner’s objections address either his claims or the Magistrate Judge’s recommendations. In a series of related objections, petitioner claims he is a “sovereign man,” and he is not properly identified in the report and recommendation because his full name is capitalized in the caption; petitioner asserts the person identified in the report and recommendation is a “straw man.” Docket No. 21 at 1. Petitioner contends he was convicted as a corporate entity, and, therefore, the Bureau of Prisons lacks jurisdiction over him because he is a sovereign. *Id.* Petitioner claims his incarceration does not comply with the Uniform Commercial Code. *Id.* at 1–2. Petitioner also claims the federal government went into bankruptcy on April 5, 1933 and was reformed as a corporation. *Id.* at 2–3. These arguments are based on “redemptionist” or “sovereign citizen” theories, which have been rejected repeatedly by federal courts. *See e.g. Nunez v. D.T.C.*, 2013 WL 5409219, at \*3 (D.S.C. Sept. 25, 2013). Because these objections have no basis in law and have no bearing on the issues raised in this petition, the Court finds that the objections lack merit.

Petitioner contends his legal papers were confiscated from his locker, which deprived him of property and denied him access to the courts. Docket No. 21 at 4. Petitioner also contends he was subjected to unconstitutional conditions of confinement when he was placed in the “hole” for minor infractions of prison rules. *Id.* at 5. Because these claims do not involve the fact or duration of petitioner’s confinement, they are not cognizable in a habeas petition. *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973); *Cook v. TDCJ Transitional Planning Dep’t*, 37 F.3d 166, 168 (5th Cir. 1994).


Finally, petitioner contends prison officials are guilty of misprision of a felony. Docket No. 21 at 4. It appears petitioner is requesting a criminal investigation or prosecution. However, the judicial branch of government does not interfere with the executive branch's authority to investigate and prosecute violations of criminal laws. *United States v. Cox*, 342 F.2d 167, 171 (5th Cir. 1965). As a result, this objection lacks merit.

The Court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the Court concludes the objections are without merit.

### **ORDER**

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendation.

**SIGNED this 5th day of July, 2017.**

  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE